

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

Frederick Smith,

Plaintiff,

v.

Daniel Heyns, et al.,

Defendants.

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Case No. 12-11373

Honorable Nancy G. Edmunds

**ORDER AND OPINION OVERRULING PLAINTIFF'S OBJECTIONS [66] AND  
GRANTING IN PART DEFENDANTS' OBJECTIONS [64] TO THE MAGISTRATE  
JUDGE'S JANUARY 10, 2013 REPORT AND RECOMMENDATION [60],  
ACCEPTING AND ADOPTING THE MAGISTRATE JUDGE'S REPORT AND  
RECOMMENDATION, AND REFERRING PLAINTIFF'S SECOND MOTION FOR  
LEAVE TO APPEAL TO THE MAGISTRATE JUDGE [65]**

Before the Court are Plaintiff Frederick Smith's objections and Defendants' objections to the magistrate judge's January 10, 2013 report and recommendation. (Dkt. 66, 64, 60.)

The magistrate judge recommended that the Court:

deny Plaintiff's two motions for preliminary injunctions (dkt. 12, 22);

grant Defendants' two motions for summary judgment (dkt. 19, 32); and

deny Plaintiff's four motions for judgment (dkt. 41, 42, 43, 58).

The magistrate judge stated, if the Court accepts the report and recommendation, that the following claims would remain pending: (1) all of Plaintiff's claims against Defendants Morrill and Dreyer; (2) Plaintiff's Rehabilitation Act and ADA claims against all of the defendants; and (3) any state law claims Plaintiff is asserting against all of the defendants. (RR at 30.)

Plaintiff has filed objections and requests that the Court reject the entire report and recommendation. (Dkt. 66.)

Defendants Heyns, Straub, Combs, Brown, DeBoer, Price, Heinritz, Bull-Ehinger and Luckey also objected to the report and recommendation. They object on the basis of the claims that the magistrate judge recommending allowing to proceed. The Court grants Defendants part of their request--the Court permits Defendants to file an additional motion for summary judgment on these claims. The Court orders Defendants to file this additional motion for summary judgment by April 19, 2013 at 12 p.m.

The Court has reviewed the magistrate judge's report and recommendation as well as Plaintiff's objections de novo. The Court agrees with the magistrate judge and accepts and adopts the report and recommendation.

The Court finally refers Plaintiff's second motion for leave to appeal, which the Court construes as a motion to amend the complaint, to the magistrate judge. (Dkt. 65)

Being fully advised in the premises, the Court **OVERRULES** Plaintiff's objections, **GRANTS IN PART** Defendants' objections, and **ACCEPTS AND ADOPTS** the magistrate judge's report and recommendation.

The Court therefore:

denies Plaintiff's two motions for preliminary injunctions (dkt. 12, 22);  
grants Defendants' two motions for summary judgment (dkt. 19, 32); and  
denies Plaintiff's four motions for judgment (dkt. 41, 42, 43, 58).

SO ORDERED.

s/Nancy G. Edmunds  
Nancy G. Edmunds  
United States District Judge

Dated: March 20, 2013

I hereby certify that a copy of the foregoing document was served upon counsel of record on March 20, 2013, by electronic and/or ordinary mail.

s/Carol A. Hemeyer  
Case Manager